

The process of sentencing offenders is one of the more difficult yet possibly the most closely scrutinised areas of judicial practice. The ideal of equality of justice is a cornerstone of our system, yet if equality of justice means consistency in sentencing, then is that ideal possible to achieve? The sentencing of Commonwealth offenders is an area of sentencing where the desire to create consistency in sentencing for federal offences across Australia is hampered by the fact that state courts in sentencing federal offenders tend to be influenced by the sentencing schemes that operate in that State. Practically speaking, it is impossible for a sentencing judge to ignore the likely sentence an offender might get for a similar state offence. This paper questions whether the quest for consistency in sentencing Commonwealth offenders is the legal equivalent of searching for Atlantis. Is it possible to have true consistency in sentencing across Australia when the sentences are being handed down in state courts with significantly different sentencing regimes? How much are we influenced by the usual sentencing practice of our state court? What are the practical difficulties faced by judges when striving for consistency in Commonwealth sentencing?